
UTAH LABOR COMMISSION

RIGOBERTO R. SILVA,

Petitioner,

vs.

**NUTRACEUTICAL CORP and
ARGONAUT INSURANCE COMPANY,**

Respondents

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 05-0326

Rigoberto R. Silva asks the Utah Labor Commission to review Administrative Law Judge Hann's denial of Mr. Silva's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Silva claims medical benefits for chest-wall pain allegedly caused by his employment at Neutraceutical Corp. Judge Hann held an evidentiary hearing on Mr. Silva's claim and then dismissed the claim for lack of evidence of any medical causal connection between Mr. Silva's work and his chest-wall problem.

Mr. Silva has now filed a motion for review of Judge Hann's decision, in which he asks for additional time to obtain medical documentation and medical opinion to support his claim.

FINDINGS OF FACT

The Commission adopts the findings of fact set forth in Judge Hann's decision. In summary, Mr. Silva began work at Neutraceutical Corp. in 1997. His work duties exposed him to powdered components of the nutritional supplements produced by Neutraceutical. However, Mr. Silva has neither identified these components nor quantified the extent of his exposure.

At some point, Mr. Silva began to suffer from a dry nose and painful breathing. In February 2002 he sought treatment for chest pain. After cardiac problems were ruled out, he was diagnosed with chest-wall pain. Subsequent testing indicated normal pulmonary function, but indicated allergies to common substances such as trees, grasses, animals and feathers. None of Mr. Silva's treating physicians have expressed an opinion that his chest-wall pain is caused by his work at Neutraceutical.

ORDER AFFIRMING ALJ'S DECISION
RIGOBERTO R. SILVA
PAGE 2 OF 3

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-401 of the Utah Workers' Compensation Act requires employers to pay medical benefits and disability compensation to workers who have been injured by accident arising out of and in the course of the employment. In order to establish that an injury arises "out of employment," an injured worker must prove that the work is both the "legal cause" and the "medical cause" of the injury. Judge Hann denied Mr. Silva's claim for benefits for his chest-wall problems on the grounds he had failed to prove medical causation.

In *Allen v. Industrial Commission*, 729 P.2d 15, 27 (Utah 1986), the Utah Supreme Court defined the requirements for proof of medical causation in workers' compensation cases as follows:

Under the medical cause test, the claimant must show by evidence, opinion, or otherwise that the stress, strain, or exertion required by his or her occupation led to the resulting injury or disability.

In this case, Mr. Silva has not provided any evidence that his work caused his chest-wall problems. Because Mr. Silva did not meet his burden of proof on this issue, Judge Hann correctly dismissed his claim.

Mr. Silva also asserts that he requires more time to obtain medical documentation and medical opinion to support his claim. The Commission notes that Mr. Silva commenced this proceeding by filing an Application with the Commission on April 4, 2005. The evidentiary hearing was not held until seven months later, on November 1, 2005. Mr. Silva has not explained why he could not obtain the additional support for his claim during that period of time, nor has he provided any detail regarding the nature of this additional evidence. The Commission therefore declines to reopen this matter or otherwise disturb Judge Hann's decision.

ORDER

The Commission affirms Judge Hann's decision. It is so ordered.

Dated this 31st day of July, 2008.

Sherrie Hayashi
Utah Labor Commissioner

IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.

ORDER AFFIRMING ALJ'S DECISION
RIGOBERTO R. SILVA
PAGE 3 OF 3

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.